

REMARKS

After entry of the instant Amendment, claims 1-17 are pending in the application. Claims 9 and 12 have been amended to correct an inadvertent claiming error in which the salt claimed therein was erroneously claimed to be a further definition of component (B). Claims 9 and 12 now correctly claim the salt therein to be a further definition of a specific alkaline substance for neutralizing the N-acyl-, N-hydrocarbon taurines to form component (B), and have also been amended for dependency. Support for the amendments to claims 9 and 12 can at least be found on page 6, line 19 to page 7, line 3 of the application as filed. Claims 9, 10, 12, and 13 have also been amended to more specifically claim the salt therein to be a taurine salt, support for which can at least be found on page 6, line 24 to page 7, line 3 of the application as filed. New claims 14 and 16 further specify that component (B) is a salt of N-acyl-, N-hydrocarbon taurines formed by neutralizing the N-acyl-, N-hydrocarbon taurines with an alkaline substance, with claim 14 depending from independent claim 1 and claim 16 depending from independent claim 4. Support for new claims 14 and 16 can at least be found on page 6, lines 19-21 of the application as filed. New claims 15 and 17 depend from claims 14 and 16, respectively, and further claim suitable alkaline substances. Support for new claims 14 and 16 can at least be found on page 6, lines 19-24 of the application as filed. No claims are presently cancelled. The Applicants respectfully submit that no new subject matter is added through the instant Amendment.

In the instant Office Action, claims 1-8 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,928,660 to Kobayashi et al. in view of

International Publication No. WO 02/094213 A2 to Tanaka et al., as evidenced by Webster's Ninth New Collegiate Dictionary and information regarding siloxane polymerization available on the Dow Corning website. Claims 1, 4, 9, 10, 12, and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kobayashi et al. in view of United States Patent No. 2,658,072 to Kosmin and International Publication No. WO 02/094213 A2 to Tanaka et al. (the '213 publication), as evidenced by Webster's Ninth New Collegiate Dictionary and information regarding siloxane polymerization available on the Dow Corning website. Finally, claims 9, 10, 12, and 13 stand rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The Applicants respectfully submit that, in view of the amendments to claims 9, 10, 12, and 13, the rejections under 35 USC §112 are overcome, as are the rejections of these claims under 35 USC §103(a). Further, the Applicants respectfully submit herewith an English language translation of the Japanese priority document for the instant application, Japanese Application No. 2002-253540, along with a "Statement of Accuracy of the Translation" executed by a person familiar with the Japanese language to attest to the accuracy of the English language translation. The Applicants' submission of the English language translation of the JP '540 application and the Statement effectively proves the proper claim of priority in the instant application to the JP '540 application and antedates the publication date of Tanaka et al. such that the rejection of claims 1-8 and 11 over Tanaka et al. must be withdrawn.

Rejections of Claims 1-8 and 11 Under 35 U.S.C. §103(a) Over Kobayashi et al. in View of Tanaka et al.

As set forth above, the Applicants respectfully submit that these rejections are overcome by properly perfecting the claim of priority in the instant application to the JP '540 application. Referring to the filing receipt for the instant application, the claim of priority to the JP '540 application for the instant application has been acknowledged by the USPTO. While the JP '540 application is written in the Japanese language, the accompanying English language translation and Statement of Accuracy of Translation prove the Applicants' entitlement to the filing date of the JP '540 application. As such, the Applicants respectfully submit that the instant application is properly entitled to priority to August 30, 2002, the filing date of the JP '540 application.

Turning to Tanaka et al., this PCT publication was first published on November 28, 2002. As such, the Applicants respectfully submit that Tanaka et al. is not available as prior art against the instant application under 35 USC §§102(a) or 102(b). While the international filing date of Tanaka et al. is earlier than the earliest priority date for the instant application (a consideration for purposes of 35 USC §102(e)), the Applicants respectfully submit that Tanaka et al. further cannot be asserted against the instant application under 35 USC §103(a) as prior art under 35 USC §102(e) because Tanaka et al. and the instant application were commonly owned at the time of the respective inventions or subject to an obligation of common assignment such that Tanaka et al. is disqualified as prior art against the instant application under 35 USC §103(c).

In view of the foregoing, the Applicants respectfully submit that the rejections of claims 1-8 and 11 under 35 USC §103(a) over Kobayashi et al. in view of Tanaka et al. must be withdrawn.

Rejections of Claims 1, 4, 9, 10, 12, and 13 Under 35 U.S.C. §103(a) Over Kobayashi et al. in Kosmin

The Applicants respectfully submit that, in view of the amendments to claims 9, 10, 12, and 13, the basis for the Examiner's rejections of these claims (as well as claims 1 and 4) under 35 USC §103(a) is overcome. To explain, the basis for the Examiner's rejections of claims 1, 4, 9, 10, 12, and 13 relied upon the previous claiming error in which the specific salts set forth in claims 9 and 12 were said to be a further definition of component (B). While component (B) was claimed to be an N-acyl-, N-hydrocarbon taurine in independent claims 1 and 4, claims 9, 10, 12, and 13 previously claimed, in error, that component (B) could simply be a taurine salt (which the Examiner found in Kosmin).

The Applicants respectfully submit that the previous claiming error in claims 9, 10, 12, and 13 has been corrected such that it is now clear that component (B) is an N-acyl-, N-hydrocarbon taurine or a salt thereof, and not simply a taurine salt. In view of the amendments to claims 9, 10, 12, and 13, the Applicants respectfully submit that the taurine salts represented by the formula of claims 9 and 12 are no longer claimed to be a possible further definition of component (B) such that the combined teachings of Kobayashi et al. and Kosmin fail to teach component (B) N-acyl-, N-hydrocarbon taurines or salts thereof.

As such, the Applicants respectfully submit that the rejections under 35 USC §103(a) over Kobayashi et al. in view of Kosmin must be withdrawn.

Rejections of Claims 9, 10, 12, and 13 Under 35 U.S.C. §112, Second Paragraph

Finally, the Applicants respectfully submit that the Examiner's basis for the indefiniteness rejections of claims 9, 10, 12, and 13 have been overcome through the amendments to these claims, as explained above, such that it is now clear in these claims that component (B) is limited to N-acyl-, N-hydrocarbon taurines or salts thereof, and does not include taurine salts having the structure claimed in claims 9 and 12.

In view of the foregoing, the Applicants respectfully submit that claims 1-17 are both novel and non-obvious over the prior art including over Kobayashi et al., Tanaka et al., and Kosmin. As such, the Applicants submit that the claims are now in condition for allowance and respectfully request such allowance.

This response is timely filed; thus, it is believed that no further fees are presently due. However, if necessary, the Commissioner is authorized to charge Deposit Account No. 08-2789 in the name of Howard & Howard Attorneys PLLC. for any additional fees or to credit the account for any overpayment.

Respectfully submitted,

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